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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,256	02/06/2004	Salmon Cupid	TOR6661	8642
30245	7590	09/09/2005		
ANTHONY EDW. J CAMPBELL PO BOX 160370 AUSTIN, TX 78716			EXAMINER RUSSELL, CHRISTINA MARIE	
			ART UNIT	PAPER NUMBER
			2837	
DATE MAILED: 09/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/774,256

Applicant(s)

CUPID, SALMON

Examiner

Christina Russell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 and 19 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:
2. Claim 7 mentions the basic elements of sound type and configuration of the striking pads that can be selected, however these two basic elements are not mentioned in the specifications.
3. Claim 8 mentions the outer housing being constructed with such materials as molded plastic, lightweight metal, and wood. Lightweight metal and wood are mentioned as possible materials for construction of the outer housing in the specifications but molded plastic is not.
4. Claim 10 claims the aforementioned pansticks for striking the pads are made of a hard rubber type material while no mention of the pansticks' material is allotted to in the specifications.
5. Claim 15 makes mention of the specific synthesized sounds the steelpan drum can produce. The tenor sound is mentioned in the specifications but not the alternate reference to the tenor voice as soprano. Similarly the cello sound is mentioned but not its alternate four-pan. Double tenor voice, double guitar, six base, nine bass and twelve bass are not mentioned at all in the specifications.

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6. Claim 16, similar to claim 7, makes mention of the basic elements of sound type and configuration of the striking pads that may be chosen, but that do not show in the specifications.

7. Claim 17, similar to claim 15, makes mention to the alternate tenor sound as soprano, the alternate cello sound as four-pan, double tenor, double guitar, six bass, nine bass, and twelve bass that do not appear in the specifications. Claim 17 also mentions a triple guitar that also does not appear in the specifications.

8. Claim 19, similar to claim 10, makes mention of the pansticks being made of a hard rubber type material when no mention of the make of the pansticks was mentioned in the specifications.

### ***Claim Objections***

9. Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 18 refers to the outer housing comprising of a means for hanging the steelpan drum on a free-standing pan stand. This claim fails to limit the subject matter of the independent claim 16 since claim 16 mentions an attaching means for hanging the steelpan drum on a pan stand.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 18 recites the limitation "said free-standing pan stand" at the end of the claim. There is insufficient antecedent basis for this limitation in the claim. Nowhere previous in the independent claim is a free-standing pan stand mentioned.

***Allowable Subject Matter***

13. Claims 1-17 and 19 are allowed.

14. The following is a statement of reasons for the indication of allowable subject matter:

15. In terms of claim 1, Matthews (5,973,247) describes the typical steelpan drum configuration of a circular outer housing having a sunken concave playing surface of varying heights. Noguchi et al. (5,856,628), on the other hand, describes a slightly larger table type percussion instrument of a pentagon shape. Noguchi does state

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however that the shape can be configured to round, elliptical or even hexagonal shape (see column 5, lines 62-65). Noguchi's invention incorporates a plurality of striking pads arranged on the slightly concaved playing surface (see column 2, lines 59-60), which produce different musical tones. Noguchi also teaches pressure sensors applied to the back side of the housing unit corresponding to the multiple striking pads, however not directly attached to the bottom of the pads (see column 3, lines 39-46). Noguchi does not discuss a central processing chip or memory chip mounted within the housing unit. Noguchi does however teach of a musical tone generation circuit built within a hollow leg of the support structure that converts electric signals to sounds. Noguchi's invention can however be reconfigured to encompass different sounds for different pads at different times, but these sounds are geared toward tom-tom and snare drum sounds only, and not a variety of orchestral sounds. Noguchi provides a manipulation panel attached to the hollow leg but is not clear as to what the particular switches do beyond turning on the power (see column 3, lines 54-57). Noguchi also does not mention the incorporation of audio drivers to the tone generation circuit or the ability to control the volume through such drivers. Noguchi also emits a display mounted on the housing to control basic elements of the device. Noguchi does however teach of a speaker, but said speaker is attached to the underside of the device (see column 1, lines 61-63) but is still mounted to the housing unit. Lastly Noguchi teaches of a power switch but does not teach of a DC power supply from a 110-volt AC outlet.

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16. As for claim 2, Noguchi does not teach of the rings of striking pads, however Aluisi (5,115,706) does, but only consisting of two rings, the center ring only consisting of one pad.

17. As for claim 3, none of the three above mentioned US patents have an outer housing unit with a convex bottom.

18. As for claim 4 and 5, Aluisi shows a free-standing adjustable stand (18) in figure 1 but does not show any slot means for attaching the drum. Matthews shows a hook method for attaching the drums to the support device but no slots and the support device is not free-standing.

19. As for claim 6, Matthews teaches the conventional sounds that can be produced from a steel drum, such as a soprano, double tenor, double second and triple guitar voice (see column 1, lines 20-21), these sounds however are not synthesized but produced from indentations in the drum.

20. As for claim 7, if the specifications are corrected as above mentioned, the subject matter claimed is allowable, since Noguchi et al. is the only one to mention the control of such elements as tone color and sounding duration (see column 4, lines 11-12), but does not mention voluntary selection of such basic elements.

21. As for claim 8, if the specifications are corrected as above mentioned, the subject matter claimed is allowable, since Noguchi teaches the construction of the housing unit from wood, and Aluisi teaches the construction from plastic, but neither encompasses individually or combined the elements in independent claim 1.

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22. As for claim 9, Noguchi teaches the pads being made of a flexible film, but not specifically a hard rubber (see column 1, lines 23-24).

23. As for claim 10, if the specifications are corrected as above mentioned, the subject matter claimed is allowable, since both Noguchi and Aluisi teach of their inventions being played with sticks but not specifying what type of sticks and what material they would made of.

24. As for claim 11, Aluisi teaches of a "midipad" typical used in electronic drum kits (see column 1, lines 44-51) but none of the aforementioned inventions teach of a musical instrument digital interface (MIDI) that provides interfacing with other musical instruments.

25. As for claim 12, Noguchi teaches of an external output terminal that can be supplied to other electronic devices (see column 4, lines 39-43), such as an external amplifier, but does not encompass all the claimed elements from independent claim 1.

26. As for claim 13, Noguchi teaches of floppy disk drive, not a CD drive, for recording of signals, an external input for inputting additional external tones and a mixing circuit to perform mixing operations on such inputted tones (see column 4, lines 21-36).

27. As for claim 14, Noguchi again teaches of manipulating switches but does not specify the operations of said switches, such as voluntary volume control.

28. As for claim 15, if the specifications are corrected as above mentioned, the subject matter claimed is allowable, since Matthews teaches such steelpan drum tones



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as soprano, double tenor, double second and triple guitar, but does not encompass the dependent claimed elements of independent claim 1.

29. In terms of independent claim 16, if the specifications are corrected as above mentioned, the subject matter claimed is allowable for similar reasons as referenced in claims 1-5, 7, 9 and 11-14.

30. As for claim 17, if the specifications are corrected as above mentioned, the subject matter claimed is allowable, since Matthews teaches such steelpan drum tones as soprano, double tenor, double second and triple guitar, however not synthesized and Matthews does not encompass the dependent claimed elements of independent claim 16.

31. As for claim 19, if the specifications are corrected as above mentioned, the subject matter claimed, similar to claim 10, is allowable, since both Noguchi and Aluisi teach of their inventions being played with sticks but not specifying what type of sticks and what material they would made of.

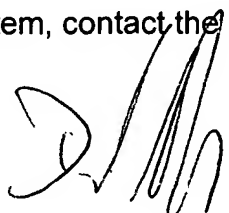
32. Claim 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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09/02/2005